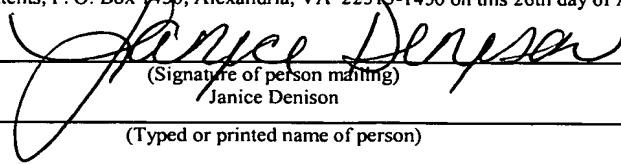




Patent Application  
Docket No. PC11013A

I hereby certify that this correspondence is being deposited with the United States Postal Service as first-class mail in an envelope addressed to: Hon. Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 on this 26th day of April, 2004.

By

  
(Signature of person mailing)  
Janice Denison  
(Typed or printed name of person)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: John P. Mueller, et al :

APPLICATION NO.: 10/060,521 : Examiner: S. Devi, Ph.D.

FILING DATE: 01/30/2002 : Group Art Unit: 1645

TITLE: HAR A POLYPEPTIDES AND NUCLEIC ACIDS, :  
AND RELATED METHODS AND USES  
THEREOF

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

PETITION TO WITHDRAW HOLDING OF ABANDONMENT  
BASED ON FAILURE TO RECEIVE OFFICE ACTION

Sir:

Applicants respectfully petition the Honorable Commissioner of Patents and Trademarks, pursuant to the practice set forth in M.P.E.P. §711.03(c), or under the authority of Delgar, Inc. v. Schuyler, 172 U.S.P.Q. 513 (D.D.C. 1970-71) to withdraw holding of abandonment in the above-identified application. This petition is based on Applicants' submission that there has been no abandonment in fact. The Notice of Abandonment mailed out on March 15, 2003 alleged that Applicants had failed to respond to the Office Action mailed on August 22, 2003. Applicants, however never received the August 22, 2003 Office Action, and therefore had been unable to respond to the Office Action within the six month statutory period to reply. As such Applicants respectfully request the granting of this petition and a remailing of the non-received Office Action along with a restart of the examination cycle.

In accordance with M.P.E.P. §711.03(c) Applicants are required to establish non-receipt of the above-identified Office Action by providing a statement stating that the Office

communication was not received by Applicants, a search of the file jacket and docket record that the Office communication was in fact not received, as well as providing a copy of the docket record and indicating where the non-received Office communication would have been entered had it been received and docketed.

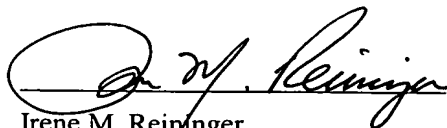
As stated above, Applicants never received the above-identified Office Action, and therefore were unable to respond to the action within the statutory time period of six months. This failure to receive the Office Action was confirmed by a search of the file jacket, of the above-identified patent application, and the associated docket records.

A copy of the docket record, showing all actions due for the above-identified application, is attached. This docket record lists the Office communications or "actions", "action due dates" and "deadline dates" of application. In the enclosed docket record, the last Office communication or "action" received and recorded by Applicants, was a Restriction Requirement with a mailing date of April 10, 2003, having a recorded one month "action due date" of May 10, 2003 and a recorded six month "deadline date" of October 10, 2003. The next Office communication or "action" recorded on the docket record is the Notice of Abandonment mailed on March 13, 2004. Had the non-received August 22, 2003 Office communication been received and docketed it would have been entered after the April 10, 2003 Restriction Requirement, shown in red on the enclosed docket report, with a 3 month "action due date" of November 22, 2003 and a six month "deadline date" of February 22, 2004.

Applicants respectfully submit that the facts and accompanying docket report clearly demonstrate that Applicants did not received the August 22, 2003 Office communication, and were therefore unable to reply within the statutory six month time period. Applicants accordingly request under M.P.E.P. §711.03(c), or under the authority of Delgar, Inc. v. Schuyler, 172 U.S.P.Q. 513 (D.D.C. 1970-71) that the Honorable Commissioner grant this petition and direct Examiner to withdraw the Notice of Abandonment, remail the non-received Office communication, and restart the examination cycle for the above-identified application.

Date: 4/26/04

Respectfully Submitted:



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## DOCKET RECORD

Docket Number	011013A	Attorney (Prosc.)	IRENE M. REININGER
Country	United States	Agent (Out.Cnst)	DIRECT FILED
Case Type	Regular	Therapeutic Area	ANTIBACTERIALS
Relation Type	NO RELATIONSHIP	Agency Atty	
Filing Type	National	Responsible Site	GROTON
Filing Number			

HAR A POLYPEPTIDES AND NUCLEIC ACIDS AND RELATED METHODS AND USES THEREOF

Priorities	Related Id	Title	Special Text	Foreign Filing	Abstract	Patent/Tax Review
Filing Date	Other Parties/Code	Canv/Prod Info	Actions	Notes	Expenses	Linked Files
Action	Action Due Date	Mail Date	Deadline Date	Completed Date	Resp #1	
MISSING PARTS +	11JL2002	11JL2002				
INFORMATION	30JL2002			23MR2004	GREGORY P.	
PUBLISHED	30JL2002*	21AU2003				
RESTRICTION	10MY2003		100C2003	12MY2003	GREGORY P.	
WITHDRAWAL OF	15MY2004				IRENE M.	
OFFICE ACTION		11AP2002				
UPDATED FILING		16AU2002				
FILE RECEIPT		11AP2002				
ACKNOWLEDGEME				25MR2004		
SEQUENCE		30JA2002				
Notice of		15MR2004				

Created: 020C2001 Updated: 01AP2004 9:30 AM By: D3M

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